Page 1 of 4

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1897-PST-E **TCEQ ID:** RN102840113 **CASE NO.:** 31572 **RESPONDENT NAME:** Key Oil Company dba Lawndale Service Station

ORDER TYPE:						
X_1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING				
FINDINGS DEFAULT ORDER	_SHUTDOWN ORDER	_IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER				
AMENDED ORDER	_EMERGENCY ORDER					
CASE TYPE:						
AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE				
PUBLIC WATER SUPPLY	X PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION				
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL				
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION				
SITE WHERE VIOLATION(S) OCCURRED: Lawndale Service Station, 7201 Lawndale Street, Houston, Harris County TYPE OF OPERATION: Convenience store with retail sales of gasoline SMALL BUSINESS: X Yes No OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location. INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter. COMMENTS RECEIVED: The Texas Register comment period expired on May 28, 2007. No comments were received. CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Thomas Greimel, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-5690; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896 Local Program Investigator: Mr. Jerry Crowder, Supervisor, University of Texas at Arlington, 1851 Crosspoint, Suite 1270, Houston, Texas 77054 Respondent: Mr. Peter S. Wareing, President, Key Oil Company, 3355 West Alabama Street, Houston, Texas 77098						

DOCKET NO.: 2006-1897-PST-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION PENALTY CONSIDERATIONS CORRECTIVE ACTIONS TAKEN/REQUIRED Total Assessed: \$14,500 Type of Investigation: **Ordering Provisions:** Complaint X Routine Total Deferred: \$2,900 The Order will require the Respondent to: ___ Enforcement Follow-up X Expedited Settlement ___ Records Review a. Immediately upon the effective date of this ___Financial Inability to Pay Agreed order: 1277 4.01 Date(s) of Complaints Relating to this Case: SEP Conditional Offset: \$0 i. Begin conducting required daily and monthly inspections of the Stage II vapor recovery system; and Date of Investigation Relating to this Case: Total Paid (Due) to General Revenue: \$330 August 9, 2006 (the remaining \$11,270 to be paid in 35 monthly ii. Begin conducting proper inventory payments of \$322 each) Date of NOE Relating to this Case: August 30 control procedures for all USTs at the 2006 (NOE) Site Compliance History Classification Station. X High Average Poor b. Within 30 days after the effective date of this Background Facts: This was a routine investigation. Twelve violations were Agreed Order: Person Compliance History Classification __High _X_Average __Poor documented. i. Begin maintaining all records WASTE pertaining to the Stage II vapor Major Source: ___ Yes _X_ No recovery system; 1) Failed to maintain Stage II records and make Applicable Penalty Policy: September 2002 immediately available for inspection upon ii. Ensure that at least one Station request by authorized representatives of the representative receives training in the executive director, EPA, or any local air operation and maintenance of the pollution control program with jurisdiction. Stage II vapor recovery system; Specifically, Stage II records were not available for review, including records of maintenance iii. Conduct annual testing of the conducted on any part of the Stage II equipment Stage II equipment; or a copy of the California Air Resources Board Executive Order for the Stage II vapor recovery iv. Install and implement a release system [30 Tex. ADMIN. CODE § 115.246(1), detection system for the USTs and the (3), and (7)(A) and TEX. HEALTH & SAFETY piping associated with the USTs and CODE § 382.085(b)]. test the line leak detectors for performance and operational 2) Failed to conduct required daily and monthly reliability; inspections of the Stage II vapor recovery system. Specifically, the Station Manager stated v. Label the top of the UST fill tube or no inspections of the Stage II components were nonremovable point in the immediate being performed at the Station [30 Tex. ADMIN. area of the fill tube using the same CODE § 115.244(1) and (3) and TEX. HEALTH & numbering system as specified on the SAFETY CODE § 382.085(b)]. Station's self-certification form; and 3) Failed to ensure that at least one Station vi. Submit documentation that representative received training in the operation demonstrates acceptable financial and maintenance of the Stage II vapor recovery assurance for taking corrective action system. Specifically, the Stage II training for and for compensating third parties for the Station's representative had not been bodily injury and property damage completed [30 Tex. ADMIN. CODE § 115.248(1) caused by accidental releases arising and Tex. Health & Safety Code § from the operation of petroleum 382.085(b)]. USTs.

RESPONDENT NAME: Key Oil Company dba Lawndale Service Station **DOCKET NO.:** 2006-1897-PST-E

- 4) Failed to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacements or modifications. Specifically, the Station did not perform the annual testing [30 Tex. ADMIN. CODE § 115.245(2) and Tex. HEALTH & SAFETY CODE § 382.085(b)].
- 5) Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks ("USTs") [30 Tex. ADMIN. CODE § 37.815(a) and (b)].
- 6) Failed to monitor USTs in a manner that will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, monthly monitoring was not being performed. [30 Tex. ADMIN. CODE § 334.50(b)(1)(A) and Tex. WATER CODE § 26.3475(c)(1)].
- 7) Failed to provide proper release detection for the piping associated with the UST system. Specifically, monthly monitoring or annual piping tightness testing had not been conducted [30 Tex. Admin. Code § 334.50(b)(2) and Tex. Water Code § 26.3475(a)].
- 8) Failed to test the line leak detectors at least once per year for performance and operational reliability [30 Tex. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and Tex. WATER CODE § 26.3475(a)].
- 9) Failed to conduct reconciliation of detailed inventory control records at least once a month sufficiently accurate to detect a release as small as 1.0% of the total substance flow through for the month plus 130 gallons [30 Tex. ADMIN. CODE § 334.50(d)(1)(B)(ii) and Tex. WATER CODE § 26.3475(c)(1)].
- 10) Failed to record inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tanks each operating day [30 Tex. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and Tex. WATER CODE § 26.3475(c)(1)].
- 11) Failed to conduct effective manual or automatic inventory control procedures for the UST system at the Station [30 Tex. ADMIN. CODE § 334.48(c)].

c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a.i through 2.b.v. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.

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12) Falled to ensure that a legible tag, label, or marking with the UST identification number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form. Specifically, the USTs were not numbered in a manner consistent with the numbering system used on the self-certification form for the Station [30 Tex. Admin. Code § 334.8(c)(5)(C)].	Space of the second of the sec
	The second of th

H:\Agreed Orders\KeyOilCompany-LawndaleServiceStation\2006-1897-pst-e-qcp-Key Oil Company Page 1 of 18 05/31/07 Penalty Calculation Worksheet (PCW) PCW Revision May 19, 2005 Policy Revision 2 (September 2002) TCEQ DATES Assigned 28-Aug-2006 PCW 27-Oct-2006 Screening 06-Sep-2006 EPA Due RESPONDENT/FACILITY INFORMATION Respondent Key Oil Company dba Lawndale Service Station Reg. Ent. Ref. No. RN102840113 Facility/Site Region 12-Houston Major/Minor Source Minor Source CASE INFORMATION Enf./Case ID No. 31572 No. of Violations 8 < Docket No. 2006-1897-PST-E Order Type 1660 Enf. Coordinator Thomas Greimel Media Program(s) Petroleum Storage Tank EC's Team Enforcement Team 7 Multi-Media \$10,000 Admin. Penalty \$ Limit Minimum Maximum Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$14,500 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. \$0 Subtotals 2, 3, & 7 **Compliance History** 0% Enhancement No adjustment for compliance history. Notes \$0 Culpability Subtotal 4 No 0% Enhancement The respondent does not meet the culpability criteria. Notes Subtotal 5 \$0 **Good Faith Effort to Comply** 0% Reduction Before NOV NOV to EDPRP/Settlement Offer Extraordinary Ordinary N/A (mark with a small x) Х The respondent does not meet the good faith criteria. Notes Subtotal 6 \$0 **Economic Benefit** 0% Enhancement* *Capped at the Total EB \$ Amount \$4,330 Total EB Amounts \$8,100 Approx. Cost of Compliance \$14,500 **Final Subtotal SUM OF SUBTOTALS 1-7** \$0 Adjustment OTHER FACTORS AS JUSTICE MAY REQUIRE Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.) Notes Final Penalty Amount \$14,500 **Final Assessed Penalty** \$14,500 STATUTORY LIMIT ADJUSTMENT

DEFERRAL

Notes

PAYABLE PENALTY

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Deferral offered for expedited settlement.

20% Reduction

Adjustment

-\$2,900

\$11,600

Compliance History Notes	No adjustment for compliance history.	
>> Compliance History Sun	nmary	
Average Performer	Adjustment Percentage (Subtotal 7)	0%
>> Compliance History Pers	son Classification (Subtotal 7)	
No	Adjustment Percentage (Subtotal 3)	0%
>> Repeat Violator (Subtota	al 3)	rei n
	Adjustment Percentage (Subtotal 2)	0%

NO CONSTRUCTION

Page	3 of 18 05/31/07 H:V	agreed Orders\KeyOilCompany-LawndaleSo	erviceStation\2006-18	97-pst-e-qc	p-Key Oil Company
	Screening Date	dba Lawndale Service Statio 06-Sep-2006 Docket No.	n.wb3 2006-1897-PST-E		PCW
	•	Key Oil Company dba Lawndale Service St		Policy Revi	sion 2 (September 2002)
	Case ID No.			•	V Revision May 19, 2005
Rea	. Ent. Reference No.				
itog		Petroleum Storage Tank			or construction of the con
	Enf. Coordinator				
***************************************	Violation Number	1			·
	Primary Rule Cite(s)	30 Tex. Admin. Code § 115.24	6(1), (3), and (7)(A)		
	Secondary Rule Cite(s)	Tex. Health & Safety Cod			
	Violation Description	Failed to maintain Stage II records and m inspection upon request by authorized re director, EPA, or any local air pollution co Specifically, Stage II records were not a records of maintenance conducted on any or a copy of the California Air Resources I for the Stage II vapor rec	presentatives of the e ntrol program with juri vailable for review, ind part of the Stage II e Board (CARB) Execut	xecutive sdiction. cluding quipment	
			Bas	e Penalty	\$10,000
	Fundamental Dua	wante and Henry and Health Matrix			nanonal de la companya de la company
>> OR	Release Actual	Perty and Human Health Matrix Harm Major Moderate Minor	Percent		
	Potential		reicent		
>> .	Programmatic Mat	Major Moderate Minor	Percent 10%		
	Matrix Notes	100% of the rule requirement was no	t met.	_	
			Adjustment	-\$9,000	
			Base Penalt	v Subtotal	\$1,000
***************************************	Violation Events		Dase i chair	y Gustolai	ψ1,000
	Number of Viola	ion Events 1			
·	mark only one use a small x		Violation Ba	se Penalty च	\$1,000
-	One	single event is recommended based on doc violation during the August 9, 2006 inve	sumentation of the stigation.		
***************************************	Economic Benefit	(EB) for this violation	Statutory Limit	Test	
	Estimated E	B Amount \$45	Violation Final Pe	naity Total	\$1,000

This violation Final Assessed Penalty (adjusted for limits)

\$1,000

	Ec	dba Lawndale Onomic B	enefit W	orksh	eet		va j
Case ID No.	Key Oil Compa 31572	any dba Lawnd				ark forest in the	
Reg. Ent. Reference No. Media [Statute]					artin a ser	man kapinan kinan manan manan ka	
พeติล เรเลเนเยา Violation No.		rage rank	· .	10000	John Grand Armington	Percent Interest	Years of Depreciation
Violation No.	•			Ren F	أغيره دراه الأرباء	5.0	15
	Item	Date	Final	Yrs	Interest	Onetime	
Item	Cost	Required	Date		Saved	Costs	Amount
Description	No commas or \$					aria yan . Majari katawa Maj	
Delayed Costs	<u> </u>	tar il di la cara di la	مناهدات المسائد		11. 		
Equipment				0.0	, \$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land		المراق والمراق		0.0	\$0	n/a	\$0
Record Keeping System	\$1,000	09-Aug-2006	30-Jun-200		\$45	n/a	\$45
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Other (as needed)	I amore and a second se			0.0	\$0]	n/a	\$0
Notes for DELAYED costs			inal Date is t		keeping syster he respondent ce.		
Avoided Costs		IAI IZE [1] avoide	nd costs hefore	enterina it	tem (except for on	e-time avoided c	nete)
Disposal	[0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]			province out the second second second	0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs							
the state of the s	Lharanananananananananananananananananana						
Approx. Cost of Compliance	\$1,000					TOTAL	\$45

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Page 5 of 18 05/31/07 i	l:\Agreed Orders\KeyOilCompany-LawndaleServiceStation\2006-1897-p	st-e-qcp-Key Oil Company
Screening Da	dbá Lawndale Šervice Station wb3 © 06-Sep-2006 Docket No. 2006-1897-PST-E	PCW
Responde	nt Key Oil Company dba Lawndale Service Station	licy Revision 2 (September 2002)
Case ID N	D. 31572	PCW Revision May 19, 2005
Reg. Ent. Reference N	D. RN102840113	Andrea
Media [Statut	Petroleum Storage Tank	tion of annual contractions of the contraction of t
Enf. Coordinate	Thomas Greimel	
Violation Numb		
Primary Rule Cite		
Secondary Rule Cite		
Violation Description	Failed to conduct required daily and monthly inspections of the Star vapor recovery system. Specifically, the Station Manager stated in inspections of the Stage II components were being performed at the Station.	no
	Base Po	enalty \$10,000
>> Environmental, F	Property and Human Health Matrix	
,	Harm	
Relea	SE Major Moderate Minor	
OR Ac	100/	
Poter	tial Percent 10%	
>> Programmatic M	atrix	
Falsificat		
·	Percent	are an area and a second and a
Matrix Notes of pol	health or the environment could be exposed to significant amounts utants which would not exceed levels that are protective of human nealth or environmental receptors as a result of the violation.	
	Adjustment	\$9,000
	Base Penalty Su	ıbtotal \$1,000
	•	·
Violation Events		TOTAL PARTY AND
Number of Vi	olation Events 1	
	dall.	
mark only use a sm		Penalty \$1,000
	One quarterly event is recommended from the August 9, 2006 investigation date to the September 6, 2006 screening date.	
Economic Bene	Fit (EB) for this violation Statutory Limit Tes	t
Estimate	d EB Amount \$20 Violation Final Penalt	
	This violation Final Assessed Penalty (adjusted for	limits) \$1,000

Avoided Costs	ANN	JALIZE [1] avoide	d costs before en	tering i	item (except for or	ie-time avoided c	osts)
Disposal			Artinia managan	0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$Ő	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs						\$rood are,	1.1 W

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The State of the Control of the State of the

Approx. Cost of Compliance \$500

4

TOTAL

of the state of the second of

\$20

Page	7 of 18 05/31/07 H:\	Agreed Orders\KeyOilCompany-LawndaleServiceStation\2006-1897-pst-e-qc	p-Key Oil Company
	Screening Date	dba Lawndale Service Station.wb3 06-Sep-2006 Docket No. 2006-1897-PST-E	PCW
	Respondent	Key Oil Company dba Lawndale Service Station Policy Revi	sion 2 (September 2002)
	Case ID No.	31572 PCI	W Revision May 19, 2005
Reg	. Ent. Reference No.	RN102840113	***
	Media [Statute]	Petroleum Storage Tank	
	Enf. Coordinator		very
	Violation Number		acceptable of the second
	Primary Rule Cite(s)		**************************************
	Secondary Rule Cite(s)		
***************************************	Violation Description	Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system. Specifically, the Stage II training for the Station's representative had not been completed.	
***************************************		Base Penalty	\$10,000
>>	Environmental, Pr	operty and Human Health Matrix Harm	The second secon
	Release		
OR	Actua		
	Potentia	x Percent 10%	
>>	Programmatic Mat	riy	
	Falsification	Major Moderate Minor	
		Percent	
	Matrix Notes of pollut	ealth or the environment could be exposed to significant amounts ants which would not exceed levels that are protective of human alth or environmental receptors as a result of the violation.	e
************		Adjustment -\$9,000	naudalainin ann an t-
		Base Penalty Subtotal	\$1,000
	Violation Events		
	Number of Viola	tion Events 1	
		daily	
oorooonaanaanaanaanaanaanaanaanaanaanaanaan	mark only on use a small	monthly violation Base Penalty	\$1,000
***************************************		Linear Li	
o de la companya del companya de la companya del companya de la co	Or ir	e quarterly event is recommended from the August 9, 2006 vestigation date to the September 6, 2006 screening date.	
***************************************	Economic Benefit	(EB) for this violation Statutory Limit Test	•
***************************************	Estimated	EB Amount \$45 Violation Final Penalty Total	\$1,000
		This violation Final Assessed Penalty (adjusted for limits)	\$1,000

	97						
Avoided Costs	ANN	UALIZE [1] avoide	d costs before en	tering i	tem (except for o	ne-time avoided c	osts)
Disposal			5	0,0	\$0	, \$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	1//			0.0	, \$0	\$0	\$0
Supplies/equipment			***************************************	0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	7			0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs		,		1441444444444444		SARYS STATE	nický.
			,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	***************************************			.1.0

\$45

TOTAL

\$1,000

Approx. Cost of Compliance

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Screening Date	dba Lawndale Service Station.wb3 06-Sep-2006 Docket No. 2006-1897-PST-E	PCW
Respondent	Key Oil Company dba Lawndale Service Station	licy Revision 2 (September 2002)
Case ID No		PCW Revision May 19, 2005
Reg. Ent. Reference No	RN102840113	Annovered
•	Petroleum Storage Tank	
Enf. Coordinato	Thomas Greimel	and state of the s
Violation Numbe		
Primary Rule Cite(s		
Secondary Rule Cite(s	Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to verify proper operation of the Stage II equipment at least every 12 months or upon major system replacements or modification Specifically, the Station did not perform the annual testing.	once ons.
	Base P	enalty \$10,000
>> Environmental, Pi	operty and Human Health Matrix	
	Harm	
Releas		
OR Actual Potential	0.50/	'
i otomi		
>> Programmatic Ma	trix	
Falsificatio		
	Percent	
Matrix Notes Humar	health or the environment could be exposed to pollutants which acceed levels that are protective of human health or environmental receptors as a result of the violation. Adjustment	\$7,500
	Base Penalty Su	ubtotal \$2,500
		:
Violation Events		
Number of Viol	ation Events 1	•
mark only oi use a smal	monthly Violation Base F	Penalty \$2,500
One an	nual event is recommended for the 12-month period preceding the August 9, 2006 investigation date.	
Economic Benefi	t (EB) for this violation Statutory Limit Tes	t
Estimated	EB Amount \$1,050 Violation Final Penalt	y Total \$2,500
vani	This violation Final Assessed Penalty (adjusted for	limits) \$2,500

TOTAL

\$1,050

\$1,000

Approx. Cost of Compliance

		\Agreed Orders\KeyOilCompany-LawndaleServiceStation\2006-1897-pst-e-qcp-Key Oil Compan
	Screening Date	·
		Key Oil Company dba Lawndale Service Station Policy Revision 2 (September 200
	Case ID No.	
eg.	Ent. Reference No.	RN102840113
	Media [Statute]	Petroleum Storage Tank
	Enf. Coordinator	Thomas Greimel
	Violation Number	5
	Primary Rule Cite(s)	
5	econdary Rule Cite(s)	
	Violation Description	Failure to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs.
		Base Penalty \$10,0
	Environmental Pro	operty and Human Health Matrix
>	Livironinicitai, i i	Harm
	Release	
R	Actual	
	Potential	Percent
	Drogrammatic Mat	riv
•	Programmatic Mat Falsification	
	aisincatori	X Percent 10%
	Matrix Notes	100% of the rule requirement was not met.
		Adjustment -\$9,000
		Base Penalty Subtotal \$1,0
		base reliaity Subtotal 41,0
	Violation Events	
	Number of Viola	tion Events 3
		daily
		daily monthly
	mark only one	Violetian Page Bandley \$3 (
	use a small :	
		annual
		single event X
	Three	e single events (one per tank) are recommended based on the
	Αι	gust 9, 2006 investigation which documented the violation.
	Economic Benefit	(EB) for this violation Statutory Limit Test
	Estimated I	EB Amount \$2,048 Violation Final Penalty Total \$3,0
		This violation Final Assessed Penalty (adjusted for limits) \$3,

Other (as needed)

\$1,950

Notes for AVOIDED costs

Approx. Cost of Compliance

0.0

Estimated cost to provide financial assurance for the three petroleum USTs. The Date Required is one year prior to the investigation date. The Final date is the investigation date.

\$0

\$0

TOTAL

\$0

\$2,048

Economic Benefit Worksheet Respondent Key Oil Company dba Lawndale Service Station Case ID No. 31572 Reg. Ent. Reference No. RN102840113 Media [Statute] Petroleum Storage Tank Percent Years of Violation No. 6 Interest Depreciation 5.0 15 Yrs Item Date Final Interest Onetime ∵ EB Item Cost Required Saved Costs Amount **Description** No commas or \$ **Delayed Costs** 0.0 \$0 \$0 \$0 Equipment Buildings 0.0 \$0 \$0 \$0 Other (as needed) 0.0 \$0 \$0 \$0 Engineering/construction 0.0 \$0 \$0 0.0 \$0 n/a \$0 Land \$0 Record Keeping System 0.0 \$0 n/a Training/Sampling 0,0 \$0 \$0 n/a Remediation/Disposal 0.0 \$0 n/a \$0 Permit Costs 0.0 \$0 \$0 n/a \$1,500 09-Aug-2006 30-Jun-2007 0.9 \$67 Other (as needed) n/a \$67 Estimated cost to provide release detection for the UST system. The Date Required is the Notes for DELAYED costs date of the investigation. The Final Date is the date the respondent is projected to come into. compliance. ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) **Avoided Costs** 0.0 **\$**0 \$0 \$0 Disposal 0.0 \$0 \$0 \$0 Personnel Inspection/Reporting/Sampling 0.0 \$0 \$0 \$0 \$0 Supplies/equipment 0.0 \$0 \$0 Financial Assurance [2] 0.0 \$0 \$0 \$0 ONE-TIME avoided costs [3] 0.0 \$0 \$0 \$0 \$1,000 09-Aug-2005 09-Aug-2006 Other (as needed) 1.0 \$50 \$1,000 \$1,050 Notes for AVOIDED costs Avoided cost for annual piping tightness test and annual line leak detector tests.

\$1,117

\$2,500

With I to

Approx. Cost of Compliance

Page '	15 of 18 05/31/07	H:\Agreed Orders\KeyOilCompany-LawndaleServiceStation\2006-1897-ps	st-e-qcp-Key Oil Company
***************************************	Screening Da	dba Lawndale Service Station.wb3 e 06-Sep-2006 Docket No. 2006-1897-PST-E	PCW
	Responde	nt Key Oil Company dba Lawndale Service Station Police	y Revision 2 (September 2002)
	Case ID N		PCW Revision May 19, 2005
Reg	. Ent. Reference N	D. RN102840113	
	Media [Statut	Petroleum Storage Tank	
	Enf. Coordinate	or Thomas Greimel	
	Violation Numb		
	Primary Rule Cite		
	Secondary Rule Cite	s)	
	Violation Description	Failure to conduct effective manual or automatic inventory control procedures for the UST system at the Station.	
		Base Per	nalty \$10,000
>>	Environmental, F	Property and Human Health Matrix Harm	
	Relea		
OR	Ac	ual	was a second and a
	Poter	tial X Percent 25%	and a second of
	D	-1-1	
>>	Programmatic M		
	Falsificat	on Major Moderate Minor Percent	
			and the second s
***************************************	Matrix Notes Huma	n health or the environment could be exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.	
		Adjustment -\$7	7,500
		Base Penalty Sub	total \$2,500
	Violation Events		
	Number of Vi	plation Events 1	-
		daily	
•	mark only use a sm	monthly X Violation Base Pe	nalty \$2,500
		annual single event	
	One m	onthly event is recommended from the August 9, 2006 investigation date to the September 6, 2006 screening date.	
V-186294440000000000000000000000000000000000	Economic Bene	fit (EB) for this violation Statutory Limit Test	
	Estimate	d EB Amount \$4 Violation Final Penalty	Total \$2,500
		This violation Final Assessed Penalty (adjusted for li	mits) \$2,500

TOTAL

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\$4

Approx. Cost of Compliance

\$100

Page	17 of 18 05/31/07 H:	Agreed Orders\KeyOilCompany-LawndaleServiceStation\2006-1897-pst-e-qcp-Key Oil Compan
	Screening Date	dba Lawndale Service Station.wb3 06-Sep-2006 Docket No. 2006-1897-PST-E PCW
		Key Oil Company dba Lawndale Service Station Policy Revision 2 (September 2002
	Case ID No.	
Red	. Ent. Reference No.	RN102840113
		Petroleum Storage Tank
	Enf. Coordinator	
	Violation Number	8
	Primary Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(5)(C)
	Secondary Rule Cite(s)	
	Violation Description	Failure to ensure that a legible tag, label, or marking with the UST identification number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form. Specifically, USTs were not numbered in a manner consistent with the self-certification form for the Station.
		Base Penalty \$10,00
>>	Environmental Pro	pperty and Human Health Matrix
	Livii Omnomai, i i	Harm
	Release	Major Moderate Minor
OR	Actual	Percent
	Potential	Percent
>>	Programmatic Mat	rix
	Falsification	Major Moderate Minor
		x Percent 10%
-	Matrix Notes	100% of the rule requirement was not met.
***************************************		Adjustment -\$9,000
		Base Penalty Subtotal \$1,00
	Violation Events	
	Number of Viola	tion Events 1
		\
	mark only one	daily monthly Violation Base Penalty \$1,00
***************************************	use a small :	single event X
	One	single event is recommended based on documentation of the violation during the August 9, 2006 investigation.
	Economic Benefit	(EB) for this violation Statutory Limit Test
	Estimated I	B Amount \$2 Violation Final Penalty Total \$1,0
www		This violation Final Assessed Penalty (adjusted for limits) \$1,0

Avoided Costs	ANN	JALIZE [1] avoide	d costs before en	tering l	tem (except for or	ne-time avoided c	osts)
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	***************************************			0.0	\$0	\$0	\$0
Other (as needed)			, , , , , , , , , , , , , , , , , , , ,	0.0	\$0	\$0	\$0
Notes for AVOIDED costs							

Approx. Cost of Compliance

\$50

TOTAL

\$2

Compliance History

Customer/	Respondent/Owner-Operator:	CN600582928	Key O	il Company		Classification: AVERAGE	Rating: 2.58		
Regulated Entity:		RN102840113	LAWN	IDALE SERVICE STA	TION	Classification: HIGH	Site Rating: 0.00		
ID Numbe	r(s):	PETROLEUM ST REGISTRATION 7201 LAWNDALE	-	TANK JSTON, TX, 77012	REGISTR	ATION Rating Date: 9/1/2006 Rep	22196 eat Violator: NO		
TCEQ Re	don:								
	pliance History Prepared:	REGION 12 - HOUSTON October 29, 2006							
	•								
Agency Decision Requiring Compliance History: Compliance Period:		Enforcement October 29, 2001 to October 29, 2006							
	ff Member to Contact for Additional Inforr								
Name:	Thomas Greimel		one:	(512) 239-5690					
		Site	Complia	nce History Compo	onents				
1. Has the	site been in existence and/or operation f				Yes	,			
	ere been a (known) change in ownership o				No				
3. If Yes,	who is the current owner?	· ·			N/A				
4. if Yes,	who was/were the prior owner(s)?				N/A		-		
5. When	did the change(s) in ownership occur?				N/A		·		
Compon	ents (Multimedia) for the Site :								
Α	Final Enforcement Orders, court judgen	nents, and consent de	crees of	the state of Texas and	the federal go	overnment.			
	N/A	3 1							
В.	Any criminal convictions of the state of	Texas and the federal	aovernm	nent.					
Б.	N/A		g						
C.	Chronic excessive emissions events.								
	N/A								
D.	The approval dates of investigations. (C 1 08/30/2006 (509194)	CCEDS Inv. Track. No).)						
E.	Written notices of violations (NOV). (CC	CEDS Inv. Track. No.)							
	N/A								
F.	Environmental audits. N/A								
G.	Type of environmental management sy	stems (EMSs).							
	N/A								
H.	Voluntary on-site compliance assessme	ent dates.							
	N/A								
I.	Participation in a voluntary pollution rec	duction program.							
	N/A								
J.	Early compliance.								
	N/A								
Sites Ou	tside of Texas								
	N/A								

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
KEY OIL COMPANY DBA	§	
LAWNDALE SERVICE STATION	§	ENVIRONMENTAL QUALITY
RN102840113		

AGREED ORDER DOCKET NO. 2006-1897-PST-E

I. JURISDICTION AND STIPULATIONS

At its ______ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Key Oil Company dba Lawndale Service Station ("Key Oil") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Key Oil appear before the Commission and together stipulate that:

- 1. Key Oil owns a convenience store with retail sales of gasoline at 7201 Lawndale Street in Houston, Harris County, Texas (the "Station").
- 2. Key Oil's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in Tex. Health & Safety Code § 382.003(12).
- 3. The Commission and Key Oil agree that the Commission has jurisdiction to enter this Agreed Order, and that Key Oil is subject to the Commission's jurisdiction.
- 4. Key Oil received notice of the violations alleged in Section II ("Allegations") on or about September 4, 2006.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Key Oil of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of Fourteen Thousand Five Hundred Dollars (\$14,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Key Oil has paid Three Hundred Thirty Dollars (\$330) of the administrative penalty and Two Thousand Nine Hundred Dollars (\$2,900) is deferred contingent upon Key Oil's timely and satisfactory

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compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Key Oil fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Key Oil to pay all or part of the deferred penalty.

The remaining amount of Eleven Thousand Two Hundred Seventy Dollars (\$11,270) of the administrative penalty shall be payable in 35 monthly payments of Three Hundred Twenty-Two Dollars (\$322) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Key Oil fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Key Oil to meet the payment schedule of this Agreed Order constitutes the failure by Key Oil to timely and satisfactorily comply with all the terms of this Agreed Order.

- 7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and Key Oil have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Key Oil has not complied with one or more of the terms or conditions in this Agreed Order.
- 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner of the Station, Key Oil is alleged to have:

1. Failed to maintain Stage II records and make immediately available for inspection upon request by authorized representatives of the executive director, EPA, or any local air pollution control program with jurisdiction, in violation of 30 Tex. ADMIN. CODE § 115.246(1), (3), and (7)(A) and Tex. Health & Safety Code § 382.085(b), as documented during an investigation conducted on August 9, 2006. Specifically, Stage II records were not available for review, including records of maintenance conducted on any part of the Stage II equipment or a copy of the California Air Resources Board Executive Order for the Stage II vapor recovery system.

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- 2. Failed to conduct required daily and monthly inspections of the Stage II vapor recovery system, in violation of 30 Tex. ADMIN. CODE § 115.244(1) and (3) and Tex. Health & Safety Code § 382.085(b), as documented during an investigation conducted on August 9, 2006. Specifically, the Station Manager stated no inspections of the Stage II components were being performed at the Station.
- 3. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, in violation of 30 Tex. ADMIN. CODE § 115.248(1) and Tex. Health & Safety Code § 382.085(b), as documented during an investigation conducted on August 9, 2006. Specifically, the Stage II training for the Station's representative had not been completed.
- 4. Failed to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacements or modifications, in violation of 30 Tex. ADMIN. CODE § 115.245(2) and Tex. Health & Safety Code § 382.085(b), as documented during an investigation conducted on August 9, 2006. Specifically, the Station did not perform the annual testing.
- 5. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in violation of 30 Tex. ADMIN. CODE § 37.815(a) and (b), as documented during an investigation conducted on August 9, 2006.
- 6. Failed to monitor USTs in a manner that will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 Tex. ADMIN. CODE § 334.50(b)(1)(A) and Tex. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on August 9, 2006. Specifically, monthly monitoring was not being performed.
- 7. Failed to provide proper release detection for the piping associated with the UST system, in violation of 30 Tex. ADMIN. CODE § 334.50(b)(2) and Tex. WATER CODE § 26.3475(a), as documented during an investigation conducted on August 9, 2006. Specifically, monthly monitoring or annual piping tightness testing had not been conducted.
- 8. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 Tex. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and Tex. WATER CODE § 26.3475(a), as documented during an investigation conducted on August 9, 2006.
- 9. Failed to conduct reconciliation of detailed inventory control records at least once a month sufficiently accurate to detect a release as small as 1.0% of the total substance flow through for the month plus 130 gallons, in violation of 30 Tex. ADMIN. CODE § 334.50(d)(1)(B)(ii) and Tex. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on August 9, 2006.
- 10. Failed to record inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tanks each operating day, in violation of 30 Tex. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and Tex. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on August 9, 2006.

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- 11. Failed to conduct effective manual or automatic inventory control procedures for the UST system at the Station, in violation of 30 Tex. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on August 9, 2006.
- 12. Failed to ensure that a legible tag, label, or marking with the UST identification number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form, in violation of 30 Tex. ADMIN. CODE § 334.8(c)(5)(C), as documented during an investigation conducted on August 9, 2006. Specifically, the USTs were not numbered in a manner consistent with the numbering system used on the self-certification form for the Station.

III. DENIALS

Key Oil generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Key Oil pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Key Oil's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Key Oil Company dba Lawndale Service Station, Docket No. 2006-1897-PST-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. It is further ordered that Key Oil shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order:
 - i. Begin conducting required daily and monthly inspections of the Stage II vapor recovery system, in accordance with 30 Tex. ADMIN. CODE § 115.244; and
 - ii. Begin conducting proper inventory control procedures for all USTs at the Station, in accordance with 30 Tex. ADMIN. CODE § 334.48.
 - b. Within 30 days after the effective date of this Agreed Order:

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- i. Begin maintaining all records pertaining to the Stage II vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.246;
- ii. Ensure that at least one Station representative receives training in the operation and maintenance of the Stage II vapor recovery system, in accordance with 30 Tex. ADMIN. CODE § 115.248;
- iii. Conduct annual testing of the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245;
- iv. Install and implement a release detection system for the USTs and the piping associated with the USTs and test the line leak detectors for performance and operational reliability, in accordance with 30 Tex. ADMIN. CODE § 334.50;
- v. Label the top of the UST fill tube or nonremovable point in the immediate area of the fill tube using the same numbering system as specified on the Station's self-certification form, in accordance with 30 Tex. ADMIN. CODE § 334.8; and
- vi. Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in accordance with 30 Tex. ADMIN. CODE § 37.815 to:

Mr. Rob Norris, Senior Financial Analyst Financial Assurance Unit, MC 184 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a.i through 2.b.v. as described below:

The certification shall, include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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Key Oil Company dba Lawndale Service Station DOCKET NO. 2006-1897-PST-E Page 6

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager Houston Regional Office Texas Commission on Environmental Quality 3870 Eastex Freeway Houston, Texas 77703-1830

- 3. The provisions of this Agreed Order shall apply to and be binding upon Key Oil. Key Oil is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
- 4. If Key Oil fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Key Oil's failure to comply is not a violation of this Agreed Order. Key Oil shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Key Oil shall notify the Executive Director within seven days after Key Oil becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Key Oil shall be made in writing to the Executive Director. Extensions are not effective until Key Oil receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 6. This Agreed Order, issued by the Commission, shall not be admissible against Key Oil in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
- 8. Under 30 Tex. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Key Oil, or three days after the date on which the Commission mails notice of the Order to Key

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Oil, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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Key Oil Company dba Lawndale Service Station DOCKET NO. 2006-1897-PST-E Page 8

Key Oil Company dba Lawndale Service Station

For the Commission

SIGNATURE PAGE

6/22/

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

72/07
For the Executive Director Date
I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the
terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for
the penalty amount, is materially relying on such representation.
I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my
failure to timely pay the penalty amount, may result in:
A negative impact on my compliance history;
• Greater scrutiny of any permit applications submitted by me;
• Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional
penalties, and/or attorney fees, or to a collection agency;
• Increased penalties in any future enforcement actions against me;
• Automatic referral to the Attorney General's Office of any future enforcement actions against
me; and
• TCEQ seeking other relief as authorized by law.
In addition, any falsification of any compliance documents may result in criminal prosecution.
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Mus. Wareng 3-26-07
Signature Date
Digitation
O_{\perp}
Peter 5. Wareing President
Name (Printed or typed) Title
Authorized Representative of

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

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